

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES
Before the Director of the Department of Insurance and Financial Services

In the matter of:

**Irvine Neuro Rehabilitation
Petitioner**

v

File No. 21-1880

**Member Select Insurance Company
Respondent**

**Issued and entered
this 3rd day of February 2022
by Sarah Wohlford
Special Deputy Director**

ORDER

I. PROCEDURAL BACKGROUND

On December 20, 2021, Irvine Neuro Rehabilitation (Petitioner) filed with the Department of Insurance and Financial Services (Department) a request for an appeal pursuant to Section 3157a of the Insurance Code of 1956 (Code), 1956 PA 218, MCL 500.3157a. The request for an appeal concerns the determination of Member Select Insurance Company (Respondent) that the Petitioner overutilized or otherwise rendered or ordered inappropriate treatment, products, services, or accommodations under Chapter 31 of the Code, MCL 500.3101 to MCL 500.3179.

The Petitioner's appeal is based on the denial of physical therapy bills pursuant to R 500.64(3), which allows a provider to appeal to the Department from the denial of a provider's bill. The Respondent issued two bill denials to the Petitioner on November 30, 2021. The Petitioner now seeks reimbursement in the full amount it billed for the dates of service at issue.

The Department accepted the request for an appeal on January 5, 2022. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal on January 5, 2022 and provided the Respondent with a copy of the Petitioner's submitted documents. The Respondent filed a reply to the Petitioner's appeal on January 15, 2022.

The Department assigned an independent review organization (IRO) to analyze issues requiring medical knowledge or expertise relevant to this appeal. The IRO submitted its report and recommendation to the Department on January 24, 2022.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for two sessions of physical therapy to an individual injured in an automobile accident in 2012. The injured person suffered a traumatic brain injury, cervical fracture, spinal cord injury, and tetraplegia. At issue in this appeal are therapy sessions provided on October 5 and 12, 2021.

With its appeal request, the Petitioner submitted records of the therapy sessions. In its appeal, the Petitioner stated that the injured person has complex neurologic and orthopedic injuries requiring ongoing skilled therapy to address deficits with balance, gait, strength, neuromuscular and cognitive function.

In its reply, the Respondent stated that the medical records do not support the Petitioner's request. According to the Respondent, more than 220 sessions of physical therapy had been provided. Additional physical therapy would exceed American College of Occupational and Environmental Medicine (ACOEM) and Official Disability Guidelines (ODG) recommendations. In addition, the Respondent stated that significant opportunity had been given to establish a home exercise program.

III. ANALYSIS

Director's Review

Under MCL 500.3157a(5), a provider may appeal an insurer's determination that the provider overutilized or otherwise rendered inappropriate treatment, products, services, or accommodations, or that the cost of the treatment, products, services, or accommodations was inappropriate under Chapter 31 of the Code. This appeal involves a dispute regarding medical necessity and overutilization.

The Director assigned an IRO to review the case file. The IRO reviewer is a licensed physical therapist in practice since 2015. The IRO reviewer concluded, based on the submitted documentation, that the physical therapy treatments provided to the injured person on the dates in question were not medically necessary in accordance with medically accepted standards as defined by R 500.61(i) and were overutilized in frequency and duration in accordance with medically accepted standards as defined by R 500.61(i). The IRO reviewer relied on guidelines issued by the American Physical Therapy Association and the Neurological Physical Therapy Association. The IRO reviewer wrote:

The most appropriate practice guidelines for physical therapy treatments in [this] scenario are the American Physical Therapy Association (APTA) and the Neurological Physical Therapy Association (NPTA). Per these guidelines, the number of physical therapy visits [the injured person] received are outside the APTA and NPTA guidelines. Also noted, in [the injured person's] particular scenario, therapy should consist of therapeutic exercises, therapeutic activities, neuromuscular re-education, and patient education with objective measures performed to show improvement in therapy and to reassess or advance in him achieving his goals.

[The injured person] is a 59-year-old male who was involved in a motor vehicle accident in 2012 that resulted in a spinal cord injury (SCI), traumatic brain injury (TBI), and associated impairments.

[He] has received an extensive number of physical therapy treatments since the onset of his injury, most recently, receiving care in order to reduce his risk of functional decline and burden of care. [He] was seen for maintenance physical therapy after already having performed therapy in years prior. The physical therapy notes...are scant and no objective measurements were performed to demonstrate his improvements in overall functional mobility. Without objective measurements a physical therapist is unable to judge or assess how a patient is responding to therapy. Also, [the injured person] was not progressed in an appropriate manner in terms of intensity, repetitions, and resistance to allow improvements in his strength, balance, and activity tolerance. Furthermore, [he] was not educated on a home exercise program (HEP) to maintain his gains and to reduce his risk of regression. Finally, a HEP for [the injured person] was not consistently reinforced to provide him the best possible clinical outcome.

Additionally, the type of interventions [he] received were not supported by evidence and were outside the range in the number of treatments set by the APTA and NPTA.... Therefore, [the] physical therapy services provided on 10/5/2021 and 10/12/2021 were not medically necessary and were overutilized.

The IRO reviewer recommended that the Director uphold the Respondent's determination.


IV. ORDER

The Director upholds the Respondent's November 30, 2021, determinations.

This order applies only to the treatment and dates of service discussed herein and may not be relied upon by either party to determine the injured person's eligibility for future treatment or as a basis for action on other treatment or dates of service not addressed in this order.

This is a final decision of an administrative agency. A person aggrieved by this order may seek judicial review in a manner provided under Chapter 6 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.301 to 24.306. MCL 500.244(1); R 500.65(7). A copy of a petition for judicial review should be sent to the Department of Insurance and Financial Services, Office of Research, Rules, and Appeals, Post Office Box 30220, Lansing, MI 48909-7720.

Anita G. Fox
Director
For the Director:

X 

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford